



## COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

<b>COUNCIL MEMBERS</b>	<b>REDEVELOPMENT AGENCY</b>
Steve Tate, Mayor	Steve Tate, Chair
Marby Lee, Mayor Pro Tempore	Marby Lee, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Mark Grzan, Council Member	Mark Grzan, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member

**WEDNESDAY, SEPTEMBER 17, 2008**

**AGENDA**

**JOINT MEETING**

**CITY COUNCIL SPECIAL & REGULAR MEETING**

**AND**

**REDEVELOPMENT AGENCY REGULAR MEETING**

**6:00 P.M.**

*A Special Meeting of the City Council is called at 6:00 P.M. for the Purpose of Conducting Closed Sessions and Library, Cultural and Arts Commission Interviews.*

---

**Steve Tate, Mayor**

**CALL TO ORDER**

(Mayor/Chairperson Tate)

**ROLL CALL ATTENDANCE**

(City Clerk/Agency Secretary Torrez)

**DECLARATION OF POSTING OF AGENDA**

**Per Government Code 54954.2**

(City Clerk/Agency Secretary Torrez)

## City Council Action

### CLOSED SESSIONS:

1.

#### PUBLIC EMPLOYEE APPOINTMENT

Authority: Government Code Sections 54957  
Consideration of Appointment: City Attorney  
Attendees: City Manager, Interim City Attorney, Bob Murray

2.

#### PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority: Government Code 54957  
Public Employee Performance Evaluation: City Manager  
Attendees: City Council, City Manager

3.

#### CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Case Name: Myers v. City of Morgan Hill  
Case Number: Workers Compensation Claim # 07000728  
Attendees: City Manager, Interim City Attorney, Assistant to the City Manager

### OPPORTUNITY FOR PUBLIC COMMENT

### ADJOURN TO CLOSED SESSION

### RECONVENE

### CLOSED SESSION ANNOUNCEMENT

## City Council Action

### INTERVIEWS:

Time Estimate		Page
1. 30 Minutes	<a href="#"><u>INTERVIEWS TO FILL A VACANCY ON THE LIBRARY, CULTURE &amp; ARTS COMMISSION</u></a> .....	1
	<b>Recommended Action(s):</b>	
	1. Council <b>Discussion</b> About the Characteristics/Traits it is Seeking in Candidates to Serve on the Culture & Arts Commission;	
	2. Council to <b>Conduct</b> Interviews;	
	3. Council to <b>Identify</b> its Top Candidate, Plus 1, as Deemed Appropriate; and	
	4. Mayor to <b>Return with Recommended</b> Appointment for Council Discussion and Ratification of Appointment; <b>or</b>	
	5. Mayor to <b>Appoint</b> to Fill One (1) Vacancy on the Library, Culture & Arts Commission; Term Expiring April 1, 2010.	

**7:00 P.M.**

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS**

**PRESENTATION**

*Santa Clara County Fire's 60<sup>th</sup> Anniversary  
Fire Chief Ken Waldvogel*

**RECOGNITIONS**

**CITY COUNCIL REPORTS**

Mayor Pro Tempore Lee

**CITY COUNCIL COMMITTEE REPORTS**

**CITY MANAGER'S REPORT**

**CITY ATTORNEY'S REPORT**

**OTHER REPORTS**

City Treasurer's Quarterly Report  
*City Treasurer Roorda*

**PUBLIC COMMENT**

**NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.**

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME THE ITEM IS ADDRESSED BY THE COUNCIL AND FOR THE REDEVELOPMENT AGENCY. PLEASE COMPLETE A SPEAKER CARD AND PRESENT IT TO THE CITY CLERK/AGENCY SECRETARY.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY COUNCIL/REDEVELOPMENT AGENCY.**

## ***City Council and Redevelopment Agency Action***

### **ADOPTION OF AGENDA**

## ***City Council Action***

### **CONSENT CALENDAR:**

#### **ITEMS 2-16**

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

	<b>Page</b>
<b>Time Estimate</b>	
<b>Consent Calendar: 1 - 10 Minutes</b>	
2. <a href="#"><u>ACCEPTANCE OF PHASE I PUBLIC IMPROVEMENTS FOR COCHRANE COMMONS RETAIL CENTER</u></a> .....	17
<b>Recommended Action(s):</b>	
1. <b>Adopt</b> Resolution Accepting the Phase I Subdivision Improvements for the Cochrane Commons Retail Center; and	
2. <b>Direct</b> the City Clerk to File a Notice of Completion with the County Recorder’s Office.	
3. <a href="#"><u>ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9919, CAPRIANO PHASE 8</u></a> .....	23
<b>Recommended Action(s):</b>	
1. <b>Adopt</b> Resolution Accepting the Subdivision Improvements Included in Tract 9919, Commonly Known as Capriano Phase 8; and	
2. <b>Direct</b> the City Clerk to File a Notice of Completion with the County Recorder’s Office.	
4. <a href="#"><u>ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9629, ROYAL COURT</u></a> .....	29
<b>Recommended Action(s):</b>	
1. <b>Adopt</b> Resolution Accepting the Subdivision Improvements Included in Tract 9629, Commonly Known as Royal Court; and	
2. <b>Direct</b> the City Clerk to File a Notice of Completion with the County Recorder’s Office.	
5. <a href="#"><u>APPROVE PAYMENT TO PG&amp;E FOR THIRD STREET UNDERGROUNDING UTILITY PROJECT</u></a> .....	35
<b>Recommended Action(s):</b> <b>Approve</b> Payment to PG&E and <b>Authorize</b> the City Manager to Execute the Service Agreement with PG&E in the Amount of \$89,146 for Completing the Engineering Review and Final Electric Connection Costs for the Third Street Undergrounding Utility Project; Subject to Review and Approval by the City Attorney.	
6. <a href="#"><u>AUGUST 2008 FINANCE &amp; INVESTMENT REPORT – CITY</u></a> .....	39
<b>Recommended Action(s):</b> <b>Accept</b> and <b>File</b> Report.	
7. <a href="#"><u>JANITORIAL SERVICES AGREEMENT AMENDMENT</u></a> .....	67
<b>Recommended Action(s):</b>	
1. <b>Approve</b> an Amendment to the Centennial Recreation Center Janitorial Services Maintenance Agreement Extending Services to the Centennial Recreation Center, Aquatics Center and Outdoor Sports Center Through June 30, 2009, with Sunnyvale Building Maintenance in the Amount of \$61,677; and	
2. <b>Authorize</b> the City Manager to Execute the Agreement on Behalf of the City; Subject to Review and Approval by the City Attorney.	
8. <a href="#"><u>RECREATION APPAREL PURCHASE</u></a> .....	71
<b>Recommended Action(s):</b> <b>Award</b> Recreation Apparel Bid to Ash Tees Screen Printing for the Purchase of Recreation and Community Services Department Apparel.	
9. <a href="#"><u>SOUTH COUNTY AIRPORT COMPREHENSIVE LAND USE PLAN</u></a> .....	73
<b>Recommended Action(s):</b> <b>Accept</b> and <b>File</b> Report.	
10. <a href="#"><u>SOUTH VALLEY DISPOSAL AND RECYCLING SCHEDULE CHANGE REQUEST</u></a> .....	87
<b>Recommended Action(s):</b> <b>Direct</b> Staff to Notify South Valley Disposal and Recycling that the City Does Not Object to a Service Day Shift in Recognition of the Thanksgiving Holiday Provided that South Valley Undertakes Significant Efforts to Notify Customers of the Changed Schedule.	
11. <a href="#"><u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES OF SEPTEMBER 8, 2008</u></a> .....	89
12. <a href="#"><u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES OF SEPTEMBER 10, 2008</u></a> .....	91

**Time Estimate** **Page**  
**Consent Calendar: 1 - 10 Minutes**

13. [ADOPT ORDINANCE NO. 1896, NEW SERIES](#) .....93  
**Recommended Action(s):** Waive the Reading, and Adopt Ordinance No. 1896, New Series, and Declare That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 2.56.020 [MEMBERSHIP] OF CHAPTER 2.56 [ARCHITECTURAL AND SITE REVIEW BOARD] OF TITLE 2 [ADMINISTRATION AND PERSONNEL] OF THE MORGAN HILL MUNICIPAL CODE.**
14. [ADOPT ORDINANCE NO. 1897, NEW SERIES](#) .....97  
**Recommended Action(s):** Waive the Reading, and Adopt Ordinance No. 1897, New Series, and Declare That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM CL-R TO CL-R/PD AND ADOPTION OF A PRECISE DEVELOPMENT PLAN FOR A 3,054 SQUARE FOOT COMMERCIAL STRUCTURE ON A .52 ACRE SITE LOCATED ON THE EAST SIDE OF MONTEREY ROAD 50 FEET SOUTH OF THE BISCEGLIA INTERSECTION (ZA-08-13: MONTEREY-DINCER).**
15. [ADOPT ORDINANCE NO. 1899, NEW SERIES](#) .....103  
**Recommended Action(s):** Waive the Reading, and Adopt Ordinance No. 1899, New Series, and Declare That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING CHAPTERS 18.04 ZONING DEFINITIONS AND CHAPTERS 18.14, 18.16, 18.17, 18.19, 18.20, 18.22, 18.24 & 18.25 OF MORGAN HILL MUNICIPAL CODE INSERTING LARGE AND SMALL CONGREGATE CARE, NURSING HOMES AND CONGREGATE CARE FOR THE ELDERLY AS EITHER A PERMITTED OR A CONDITIONAL USE (ZA-08-017: CITY OF MORGAN HILL-SENIOR HOUSING DEFINITIONS).**
16. [ADOPT ORDINANCE NO. 1900, NEW SERIES](#) .....117  
**Recommended Action(s):** Waive the Reading, and Adopt Ordinance No. 1900, New Series, and Declare That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-05-04D: EAST MAIN-MARRAD/DIVIDEND.**

## City Council Action

### CONSENT CALENDAR:

#### ITEM 17-18

**Time Estimate** **Page**  
**Consent Calendar: 1 - 10 Minutes**

17. [AWARD FISCAL YEAR 2008-2009 SEWER POINT REPAIR PROJECT](#) ..... 123  
**Recommended Action(s):**
1. Approve Project Plans and Specifications;
  2. Award Contract to Fermin Sierra Construction Inc. for the Fiscal Year 2008-2009 Sewer Point Repair Project in the Amount of 74,000; and
  3. Authorize Expenditure of Construction Contingency Funds Not to Exceed \$7,400.

**Time Estimate** **Page**  
**Consent Calendar: 1 - 10 Minutes**

18. [\*\*ADOPT ORDINANCE NO. 1898, NEW SERIES\*\*](#) .....127  
**Recommended Action(s):** **Waive** the Reading, and **Adopt** Ordinance No. 1898, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-05-07D: WRIGHT AVENUE-MANANA INVESTORS.**

## *Redevelopment Agency Action*

### CONSENT CALENDAR:

#### ITEM 19

**Time Estimate** **Page**  
**Consent Calendar: 1 - 10 Minutes**

19. [\*\*AUGUST 2008 FINANCE & INVESTMENT REPORT – RDA\*\*](#) ..... 133  
**Recommended Action(s):** **Accept** and **File** Report.

## *City Council and Redevelopment Agency Action*

### CONSENT CALENDAR:

#### ITEMS 20-25

**Time Estimate** **Page**  
**Consent Calendar: 1 - 10 Minutes**

20. [\*\*FIRST CONTRACT AMENDMENT WITH FEHR & PEERS FOR ADDITIONAL SERVICES TO PROVIDE TRANSPORTATION REPORT FOR MASTER ENVIRONMENTAL IMPACT REPORT TO ANALYZE GENERAL PLAN CIRCULATION ELEMENT AMENDMENTS\*\*](#) ..... 143  
**Redevelopment Agency Recommended Action(s):** **Authorize** the Executive Director to Execute the First Amendment of Contract with Fehr & Peers; Subject to Review and Approval by Agency Counsel.  
**City Council Recommended Action(s):** **Approve** Budget Amendment to Increase Contract Services Accounts by a Total of \$75,000.
21. [\*\*CARRYOVER OF ENCUMBRANCES FROM FISCAL YEAR 2007-2008 TO FISCAL YEAR 2008-2009\*\*](#)..... 153  
**Recommended Action(s):** **Receive** and **File** Report.
22. [\*\*FISCAL YEAR 2007-2008 YEAR-END BUDGET AMENDMENTS\*\*](#) ..... 157  
**Recommended Action(s):** **Increase** Fiscal Year 2007-2008 Budget Appropriations.
23. [\*\*REAPPROPRIATION OF FISCAL YEAR 2007-2008 PROJECTS AND PROGRAMS\*\*](#) ..... 161  
**Recommended Action(s):** **Approve** the Reappropriation of Fiscal Year 2007-2008 Project and Program Costs in the Fiscal Year 2008-2009 Budget.
24. [\*\*APPROVE JOINT SPECIAL AND REGULAR CITY COUNCIL AND REGULAR REDEVELOPMENT AGENCY MEETING MINUTES OF AUGUST 27, 2008\*\*](#) ..... 165

**Time Estimate** **Page**  
**Consent Calendar: 1 - 10 Minutes**

25. [APPROVE JOINT REGULAR CITY COUNCIL AND REGULAR REDEVELOPMENT AGENCY MEETING MINUTES OF SEPTEMBER 3, 2008](#) ..... 191

## City Council Action

### PUBLIC HEARINGS:

**Time Estimate** **Page**

26. **20 Minutes** [GPA-08-10/ZA-08-12: BARRETT – COLSON & COLSON CONSTRUCTION COMPANY](#).....193  
 Public Hearing Opened.  
 Please Limit Your Remarks to 3 Minutes. Public Hearing Closed  
 Council Discussion.  
 Action- **Adopt** Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.  
 Action- **Adopt** General Plan Amendment Resolution.  
 Action- **Motion to Waive** the Reading in Full of Ordinance.  
 Action- **Motion to Introduce** Ordinance by Title Only. (Roll Call Vote)

## City Council Action

### OTHER BUSINESS:

**Time Estimate** **Page**

27. **10 Minutes** [DEVELOPMENT SERVICE CENTER SITE IMPROVEMENTS AND FURNITURE](#).....243  
**Recommended Action(s):**  
 1. **Authorize** a Construction Change Order from Project Contingency Funds Not to Exceed \$181,000; for Existing Parking Lot and Site Improvements;  
 2. **Authorize** the City Manager to Execute a Third Amendment to RMW Contract in the Amount of \$46,290, Subject to Review and Approval by the City Attorney; and  
 3. **Authorize** the City Manager to Execute a Purchase Order with Pivot Interiors to Provide and Install the Long Lead Time Office Furniture for the Development Service Center in an Amount Not to Exceed \$397,057.96, Subject to Review and Approval by the City Attorney.

28. **5 Minutes** [ADOPT ORDINANCE NO. 1901, NEW SERIES](#) .....249  
**Recommended Action(s):** **Waive** the Reading, and **Adopt** Ordinance No. 1901, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-05-06C: GINGER – CUSTOM ONE.**

29. **10 Minutes** [CALIFORNIA HIGH-SPEED RAIL NOVEMBER BALLOT MEASURE](#) .....255  
**Recommended Action(s):** **Accept** and **File** Report.

## ***Redevelopment Agency Action***

**OTHER BUSINESS:**

<b>Time Estimate</b>	<b>Page</b>
30. <b>10 Minutes</b>	<b>257</b>
	<b><u>ECONOMIC DEVELOPMENT STUDY</u></b> ..... <b><u>Recommended Action(s):</u></b> <b><u>Authorize</u></b> the Executive Director to Amend the Existing Agreement with CBRE Consulting, Inc. to Proceed with Both Phase I and Phase II of the Economic Development Study in an Amount Not to Exceed \$53,000, Subject to Review and Approval by Agency Council; and Contingent Upon the Morgan Hill Business Improvement Organizations' Ability to Provide Full Funding for Phase II as Outlined in the Staff Report.

## ***City Council Action***

**OTHER BUSINESS:**

<b>Time Estimate</b>	<b>Page</b>
31. <b>5 Minutes</b>	<b>267</b>
	<b><u>QUARTERLY STATUS REPORT ON PUBLIC SAFETY &amp; COMMUNITY SERVICES COMMITTEE 2008-2009 WORK PLAN</u></b> ..... <b><u>Recommended Action(s):</u></b> <b><u>File</u></b> Quarterly Status Report for Public Safety & Community Services Committee Work Plan.
32. <b>5 Minutes</b>	<b>271</b>
	<b><u>QUARTERLY REPORT ON COMMUNITY AND ECONOMIC DEVELOPMENT (C&amp;ED) COMMITTEE</u></b> ..... <b><u>Recommended Action(s):</u></b> <b><u>Accept</u></b> First Quarter Report for Fiscal Year 2008-2009 from the C&ED.

**FUTURE COUNCIL AGENCY-INITIATED AGENDA ITEMS:**

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

**ADJOURNMENT**

### **NOTICE**

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act that are distributed to a majority of the legislative body less than 72 hours prior to an open session, will be made available for public inspection at the Office of the City Clerk at Morgan Hill City Hall located at 17555 Peak Avenue, Morgan Hill, CA, 95037 at the same time that the public records are distributed or made available to the legislative body. (Pursuant to Government Code 54957.5)

**PUBLIC COMMENTS ON ITEMS NOT APPEARING ON AGENDA**

Following the opening of Council/Agency business, the public may present comments on items *NOT* appearing on the agenda that are within the Council's/Agency's jurisdiction. Should your comments require Council/Agency action, your request will be placed on the next appropriate agenda. No Council/Agency discussion or action may be taken until your item appears on a future agenda. You may contact the City Clerk/Agency Secretary for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your presentation to three (3) minutes.

**PUBLIC COMMENTS ON ITEMS APPEARING ON AGENDA**

The Morgan Hill City Council/Redevelopment Agency welcomes comments from all individuals on any agenda item being considered by the City Council/Redevelopment Agency. Please complete a Speaker Card and present it to the City Clerk/Agency Secretary. This will assist the Council/Agency Members in hearing your comments at the appropriate time. Speaker cards are available on the table in the foyer of the Council Chambers. In accordance with Government Code 54953.3 it is not a requirement to fill out a speaker card in order to speak to the Council/Agency. However, it is very helpful to the Council/Agency if speaker cards are submitted. As your name is called by the Mayor/Chairman, please walk to the podium and speak directly into the microphone. Clearly state your name and address and then proceed to comment on the agenda item. In the interest of brevity and timeliness and to ensure the participation of all those desiring an opportunity to speak, comments presented to the City Council/Agency Commission are limited to three minutes. We appreciate your cooperation.

**NOTICE**

**AMERICANS WITH DISABILITIES ACT (ADA)**

The City of Morgan Hill complies with the Americans with Disability Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City. If you need special assistance to access the meeting room or to otherwise participate at this meeting, including auxiliary aids or services, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation. Please make your request at least 48 hours prior to the meeting to enable staff to implement reasonable arrangements to assure accessibility to the meeting.

If assistance is needed regarding any item appearing on the City Council/Agency Commission agenda, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation.

**NOTICE**

Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council/Agency Commission at, or prior to the Public Hearing on these matters.

**NOTICE**

The time within which judicial review must be sought of the action by the City Council/Agency Commission which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.